

REPORT OF THE FINANCE SUBCOMMITTEE ON LITIGATION

January 14, 2014

The Honorable,
The Board of Commissioners of Cook County

Ladies and Gentlemen,

Your Finance Subcommittee on Litigation of the Board of Commissioners met pursuant to notice on Tuesday, January 14, 2013 at 11:00 a.m. in the County Building, Room 569, Chicago, Illinois.

SECTION 1

ATTENDANCE:

Present: Chairman Silvestri and Commissioners Collins, Schneider, Suffredin and Tobolski (5)

Absent: Vice Chairman Fritchey and Commissioner Gainer (2)

Also Present: Commissioners Butler, Daley, Garcia, Moore and Murphy; Julianna Stratton – Executive Director, Justice Advisory Council; Daniel F. Gallagher – Chief, Civil Actions Bureau; Donald J. Pechous – Deputy Bureau Chief, Civil Actions Bureau; Francis J. Catania and John Curran – Assistant State's Attorneys; Matthew Burke – First Assistant General Counsel – Office of the Sheriff

Court Reporter: Anthony W. Lisanti, C.S.R.

Commissioner Tobolski, seconded by Commissioner Suffredin, moved to enter into Executive Session. The motion carried.

Commissioner Suffredin, seconded by Commissioner Tobolski, moved to return to Regular Session. The motion carried.

14-0183

PROPOSED RESOLUTION

Sponsored by: TONI PRECKWINKLE, President and PETER N. SILVESTRI, LARRY SUFFREDIN, JESÙS GARCÌA AND STANLEY MOORE, Cook County Commissioners

RESOLUTION IN SUPPORT OF MODIFYING THE PRISONER RELEASE ORDER BEFORE THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

WHEREAS, the County is engaged in litigation before the United States District Court for the Northern District of Illinois in *United States v. Cook County, Illinois; et al.*, Case No 10 CV 2946; and

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WHEREAS, the Cook County Board President, the Cook County Board of Commissioners, and the Cook County Sheriff are named defendants in this litigation and, as such, are expected to comply with the “Agreed Order” entered in the case; and

WHEREAS, under this litigation on March 11, 2011 a three judge panel entered a Prisoner Release Order to take certain actions to avoid unconstitutional conditions of confinement attributable to overcrowding at the jail; and

WHEREAS, under the March 2011 Prisoner Release Order, the Cook County Sheriff was granted authority to release qualifying non-violent detainees onto electronic monitoring in consideration of public safety, the likelihood of a defendant appearing in court, and population levels at the Cook County Department of Corrections (hereinafter, “CCDOC”); and

WHEREAS, despite the Prisoner Release Order, the CCDOC has been at or near capacity for most of 2013, its highest level in eight years, at an average cost of \$143 a day per pre-trial detainee; and

WHEREAS, the current Prisoner Release Order has had limited impact on reducing the jail population; and

WHEREAS, the parties to the litigation, intend to present a “Parties’ Joint Motion for Modification of the Prisoner Release Order” requesting that the Prisoner Release Order be administered by the Offices of the President of the Cook County Board rather than the Sheriff; and

WHEREAS, the Cook County Board President and the Cook County Commissioners are primarily responsible for the fiscal stability of the County and are willing to devote appropriate resources to modify the Prisoner Release Order to reduce the population of the Cook County Jail.

NOW, THEREFORE, BE IT RESOLVED, that the President and Board of Commissioners of Cook County support the parties “Motion to Modify the Prisoner Release Order.”

BE IT FURTHER RESOLVED, that the President and Board of Commissioners’ State’s Attorney Counsel shall work with the parties on the “Parties’ Joint Motion to Modify the Prisoner Release Order.

A motion was made by Commissioner Suffredin, seconded by Commissioner Tobolski, that the Substitute to Item 14-0183 be recommended for acceptance. The motion carried by the following vote:

Aye: Chairman Silvestri, Commissioners Collins, Schneider, Suffredin and Tobolski (5)

Absent: Vice Chairman Fritchey, Commissioner Gainer (2)

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PROPOSED SUBSTITUTE TO ITEM 14-0183

PROPOSED RESOLUTION

Sponsored by: TONI PRECKWINKLE, President and PETER N. SILVESTRI, LARRY SUFFREDIN, JESÙS GARCÌA, AND STANLEY MOORE AND JERRY BUTLER, Cook County Commissioners

RESOLUTION IN SUPPORT OF MODIFYING THE PRISONER RELEASE ORDER BEFORE THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

WHEREAS, the County is engaged in litigation before the United States District Court for the Northern District of Illinois in *United States v. Cook County, Illinois; et al.*, Case No 10 CV 2946; and

WHEREAS, the Cook County Board President, the Cook County Board of Commissioners, and the Cook County Sheriff are the named defendants (“Defendants”) in this litigation and, as such, are obligated to comply with the “Agreed Order” entered in the case; and

WHEREAS, under this litigation on March 11, 2011 a three judge panel entered a Prisoner Release Order to take certain actions to avoid unconstitutional conditions of confinement attributable to overcrowding at the jail; and

WHEREAS, under the March 2011 Prisoner Release Order, the Cook County Sheriff was granted authority to release qualifying non-violent detainees onto electronic monitoring in consideration of public safety, the likelihood of a defendant appearing in court, and population levels at the Cook County Department of Corrections (hereinafter, “CCDOC”); and

WHEREAS, despite the Prisoner Release Order, the CCDOC was at or near capacity for most of 2013, its highest level in eight years, at an average cost of \$143 a day per pre-trial detainee; and

WHEREAS, the current Prisoner Release Order has had limited impact on reducing the jail population; and

WHEREAS, the Defendants to the litigation, intend to present a “Parties’ Joint Motion for Modification of the Prisoner Release Order” (“Joint Motion”) requesting that the Prisoner Release Order be administered by the Offices of the President of the Cook County Board rather than the Sheriff, and further intend to seek the agreement of the Department of Justice (“DOJ”) on behalf of the United States to the Joint Motion; and

WHEREAS, subject to the approval of the Court, the Defendants will request that the President of the County Board administer the Prisoner Release Order for a period of two years or when the Court determines the Defendants to be in Substantial Compliance, whichever is sooner; and

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WHEREAS, the Joint Motion will also ask the Court to allow the President of the County Board to continue the current practice of appointing retired judges to determine whether the eligible non-violent detainees meet the aforementioned conditions for release, on electronic monitoring; and

WHEREAS, the Prisoner Release Order does not replace the need for long-term reforms to the Cook County criminal justice system, particularly as it relates to Bond Court; and

WHEREAS, the Cook County Board President and the Cook County Commissioners are primarily responsible for the fiscal stability of the County and are willing to devote appropriate resources to modify the Prisoner Release Order to reduce the population of the Cook County Jail.

NOW, THEREFORE, BE IT RESOLVED, that the President and Board of Commissioners of Cook County support the Joint Motion.

BE IT FURTHER RESOLVED, that the President and Board of Commissioners' State's Attorney Counsel shall work with the parties on the Joint Motion.

A motion was made by Commissioner Suffredin, seconded by Commissioner Tobolski, that the Substitute to Item 14-0183 be recommended for adoption. The motion carried by the following vote:

Aye: Chairman Silvestri, Commissioners Collins, Schneider, Suffredin and Tobolski (5)

Absent: Vice Chairman Fritchey, Commissioner Gainer (2)

Commissioner Tobolski, seconded by Commissioner Suffredin, moved to Concur with the Recommendation of the State's Attorney's Office to Approve the matter of *Aaron Beals, Special Administrator of the Estate of Thomas Beals v. Sheriff and County (Cermak)*, Case No. 10 L 13566, (Communication Number 321273). The motion carried.

Commissioner Suffredin, seconded by Commissioner Collins, moved to Concur with the Recommendation of the State's Attorney's Office to Receive and File the matter of *United States of America v. Cook County, et al.*, Case No. 10 C 2946, (Communication Number 325473). The motion carried.

Commissioner Suffredin, seconded by Commissioner Collins, moved to Concur with the Recommendation of the State's Attorney's Office to Receive and File the matter of *Jimmy Doe v. Cook County*, Case No. 99 C 3945. The motion carried.

Commissioner Tobolski, seconded by Commissioner Suffredin, moved to authorize invoice payments for special counsels in Tab #1 through Tab #2 in Volume 2 which are in compliance with the County's Attorney-Fee Guidelines. The motion carried.

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Tab 1	Rock Fusco & Connelly Case No. 09 C 3613	<i>Lambert and Jamison, et al.</i>
Tab 2	Querrey & Harrow, Ltd. Case No. 08 CV 6621	<i>Hernandez v. Cook County Sheriff's Department</i>
Tab 3	Patricia C. Bobb & Associates Case Nos. 12 L 12995, 12 CV 09158 & 12 CV 09170	<i>Terrill Swift, Michael Saunders and Vincent Thames v. City of Chicago, et. al.</i>

Commissioner Suffredin, seconded by Commissioner Schneider, moved to Adjourn. The motion carried unanimously and the meeting was adjourned.

SECTION 2

**YOUR COMMITTEE RECOMMENDS THE FOLLOWING ACTIONS
WITH REGARD TO THE MATTERS NAMED HEREIN:**

Communication Number 321273.....Recommended for Approval
Communication Number 325473..... Recommended for Receiving and Filing
Item 14-0183.....Recommended for Approval as Substituted

FINANCE SUBCOMMITTEE ON LITIGATION



PETER N. SILVESTRI, CHAIRMAN

ATTEST:


MATTHEW B. DELEON, SECRETARY

*An audio recording of this meeting is available in the Office of the Secretary to the Board, 118 North Clark Street, Room 436, Chicago, IL 60602